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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.687 OF 1987

M/s.Mondovi Pellets Ltd....Applicant

Vs.

The Commissioner of Income-tax
Karnataka -II.....Respondent

Mr. Ashok Kotangale for the Applicant.
Mr. S.N. Inamdar with Mr. A.K. Jasani for Respondent

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 17TH JULY,2007

P.C.:

. At the instance of the Revenue the Tribunal has referred the following two questions:-

1. Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in holding on the facts of the case, that the interest of Rs.11,65,493/- and Rs.3,05,165/- for both the years was a revenue receipt liable to tax and did not go to reduce the capital cost of the project?

2. Whether on the facts and circumstances of the case, the Appellate Tribunal was right in law in holding that the establishment expenditure such as audit

fees, salary Directors" fees etc., interest income;

for the opinion of this Court at the instance of the Assessee.

2. At the hearing of this application on behalf of the assessee the learned Counsel does not press question No.1. Hence the said question is returned unanswered.

3. In so far as question No.2 is concerned, our attention is invited to the judgment of a Division Bench of this Court in Chinai and Co. Pvt. Ltd. vs. Commissioner of Income-Tax 1994 ITR (206), 616. Learned Counsel for the Respondent agrees that the ratio of the judgment in Chinai & Co. (Supra) will apply and the question referred needs to be answered in the negative. In the light of that Question No.2 as referred to is answered in the negative in favour of the assessee and against the Revenue. Reference disposed of accordingly.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**